



Atty Dkt No. 6750-0010  
Client No. IT02-U05.US2

## COMBINED DECLARATION AND POWER OF ATTORNEY FOR UTILITY PATENT APPLICATION

AS A BELOW-NAMED INVENTOR, I HEREBY DECLARE THAT:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if more than one name is listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: MINIMALLY INVASIVE JOINT IMPLANT WITH 3-DIMENSIONAL GEOMETRY MATCHING THE ARTICULAR SURFACES the specification of which

       is attached hereto  
X was filed on October 7, 2003

and assigned Serial No. **10/681,749**.

I HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

I acknowledge and understand that I am an individual who has a duty to disclose information which is material to the patentability of the claims of this application in accordance with Title 37, Code of Federal Regulations, ' ' 1.56(a) and (b) which state:

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by ' ' 1.97(b)-(d) and 1.98.

However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
  - (i) Opposing an argument of unpatentability relied on by the Office, or
  - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

I do not know and do not believe this invention was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to said application. This invention was not in public use or on sale in the United States of America more than one year prior to this application. This invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on any application filed by me or my legal representatives or assigns more than six months prior to this application.

I hereby claim priority benefits under Title 35, United States Code ' 119(e)(1) of any United States provisional application(s) for patent as indicated below and have also identified below any application for patent on this invention having a filing date before that of the application for patent on which priority is claimed:

<u>Application No.</u>	<u>Date of Filing</u> (day/month/year)	<u>Priority</u> <u>Claimed</u>
60/416,601	7 October 2002	Yes <input checked="" type="checkbox"/> No
60/467,686	2 May 2003	Yes <input checked="" type="checkbox"/> No

I hereby claim the benefit under Title 35, United States Code, ' 120 of any United States application(s) listed below, and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code ' 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, ' 1.56(a) and (b) set forth above which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Serial No.:

Filing Date:

Status (patented, pending, abandoned):

Application Serial No.:

Filing Date:

Status (patented, pending, abandoned):

I hereby appoint the following attorneys and agents under **CUSTOMER NO. 36806** to prosecute that application and to transact all business in the Patent and Trademark Office connected therewith and to file, to prosecute and to transact all business in connection with all patent applications directed to the invention:

Address all correspondence to: Dahna S. Pasternak at

Customer No. 36806  
 ROBINS & PASTERNAK LLP  
 1731 Embarcadero Road, Suite 230  
 Palo Alto, CA 94303  
 Tel: 650 493-3400  
 Fax: 650-493-3440

This appointment, including the right to delegate this appointment, shall also apply to the same extent to any proceedings established by the Patent Cooperation Treaty.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under ' 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signature: Date

Full Name Inventor: Philipp LANG

Citizenship: Germany

Residence: 7 Fair Oaks Terrace, Lexington, MA 02421

Post Office Address: As Above

Signature: Date

Full Name Inventor: Daniel STEINES

Citizenship: Germany

Residence: 3619 Park Boulevard, Palo Alto, CA 94306

Post Office Address: As Above

Signature: Date

Full Name Inventor: Hacene BOUADI

Citizenship: United States and Algeria

Residence: 1824 Oak Creek Drive, Apt. 307, Palo Alto, CA 94304

Post Office Address: As Above

Signature:  Date 02/04/04

Full Name Inventor: David MILLER

Citizenship: United States

Residence: 1766 Sand Hill Road, #404, Palo Alto, CA 94304

Post Office Address: As Above

Signature: Date

Full Name Inventor: Barry J. LINDER

Citizenship: United States

Residence: 29 Bluehaven Court, Danville, CA 94506

Post Office Address: As Above

Signature: Date

Full Name Inventor: Cecily Anne SNYDER

Citizenship: United States

Residence: 69 Ovington Drive, East Falmouth, MA 02536

Post Office Address: As Above



Attorney Docket No: 6750-0010  
IMATX File: IT02-U05.US2

PATENT

## DECLARATION AND POWER TO PROSECUTE

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated next to my name;

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

### MINIMALLY INVASIVE JOINT IMPLANT WITH 3-DIMENSIONAL GEOMETRY MATCHING THE ARTICULAR SURFACES

the specification of which:

(check one)

is attached hereto;

was filed as United States Application Serial No. 10/681,749 on October 7, 2003, and was amended on \_\_\_\_\_ (if applicable);

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above;

I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information which is known to me to be material to the patentability of said invention in accordance with 37 C.F.R. §1.56;

I hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below:

<u>Application Number(s)</u>	<u>Filing Date(s)</u> (day/month/year)	<u>Priority Claimed</u>
60/416,601	7 October 2002	YES
60/467,686	2 May 2003	YES

I hereby claim the benefit under Title 35, United States Code, §120 of any United States applications listed below, and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) and (b) set forth above which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

<u>Application No.</u>	<u>Date of Filing</u> (day/month/year)	<u>Priority</u> <u>Claimed</u>
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As to the subject matter of this application which is common to said earlier application, I do not know and do not believe that the same was ever known or used in the United States of America before my or our invention thereof or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to said earlier application, or in public use or on sale in the United States of America more than one year prior to said earlier application; that said common subject matter has not been patented or made the subject of an inventor's certificate issued before the date of said earlier application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to said earlier application; and that the earliest application(s) for patent or inventor's certificate on said invention filed by me or my legal representatives or assigns in any country foreign to the United States of America is identified below, as well as all other such applications (if any) filed more than twelve months prior to the filing date of this application:

None known.

The priority of the earliest application(s) (if any) filed within a year prior to said pending prior application is hereby claimed under 35 U.S.C. §119.

As to the subject matter of this application which is not common to said earlier application, I do not know and do not believe that the same was ever known or used in the United States of America before my or our invention thereof or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to the date of this application, or in public use or on sale in the United States of America more than one year prior to the date of this application, and that said subject matter has not been patented or made the subject of an inventor's certificate issued in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to the date of this application, and that the earliest application(s) for patent or inventor's certificate on said subject matter filed by me or my legal representatives or assigns in any country foreign to the United States of America is identified below, as well as all other such application(s) (if any) filed more than twelve months prior to the filing date of this application:

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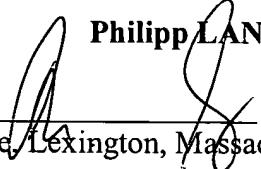
As a named inventor, I hereby appoint the registered practitioners of Cooley Godward LLP included in the Customer Number provided below to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected therewith; I further direct that correspondence concerning this application be directed to:

Imaging Therapeutics, Inc. c/o  
Robins & Pasternak  
1731 Embarcadero Road, Suite 230  
Palo Alto CA 94304  
Tel: 650.493.3400  
Fax: 650.493.3440

**CUSTOMER NUMBER: 36806**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**Full name of first inventor:** Philipp LANG

Inventor's signature  Date 2 - 10 - 04  
Residence: 7 Fair Oaks Terrace, Lexington, Massachusetts 02421  
Citizen of: Germany  
Post Office Address: (same as above)

**Full name of second inventor:** Daniel STEINES

Inventor's signature \_\_\_\_\_ Date \_\_\_\_\_  
Residence: 3619 Park Boulevard, Palo Alto, California 94306  
Citizen of: Germany  
Post Office Address: (same as above)

**Full name of third inventor:** Hacene BOUADI

Inventor's signature \_\_\_\_\_ Date \_\_\_\_\_  
Residence: 1824 Oak Creek Drive, Apt. 307, Palo Alto CA 94304  
Citizen of: United States and Algeria  
Post Office Address: (same as above)

**Full name of fourth inventor:** **David MILLER**

Inventor's signature \_\_\_\_\_ Date \_\_\_\_\_  
Residence: 1766 Sand Hill Road #404, Palo Alto CA 94304  
Citizen of: United States  
Post Office Address: (same as above)

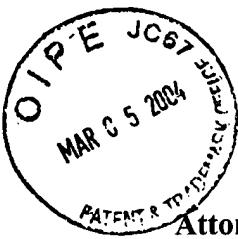
**Full name of fifth inventor:** **Barry J. LINDER**

Inventor's signature \_\_\_\_\_ Date \_\_\_\_\_  
Residence: 29 Blue Haven Court, Danville CA 94506  
Citizen of: United States  
Post Office Address: (same as above)

**Full name of sixth inventor:** **Cecily Anne SNYDER**

Inventor's signature \_\_\_\_\_ Date \_\_\_\_\_  
Residence: 69 Ovington Drive, East Falmouth MA 02536  
Citizen of: United States  
Post Office Address: (same as above)

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DSS601!.DOC



Attorney Docket No: 6750-0010  
IMATX File: IT02-U05.US2

PATENT

### DECLARATION AND POWER TO PROSECUTE

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated next to my name;

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

#### MINIMALLY INVASIVE JOINT IMPLANT WITH 3-DIMENSIONAL GEOMETRY MATCHING THE ARTICULAR SURFACES

the specification of which:

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is attached hereto;

was filed as United States Application Serial No. 10/681,749 on October 7, 2003, and was amended on \_\_\_\_\_ (if applicable);

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I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information which is known to me to be material to the patentability of said invention in accordance with 37 C.F.R. §1.56;

I hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below:

<u>Application Number(s)</u>	<u>Filing Date(s)</u> (day/month/year)	<u>Priority Claimed</u>
60/416,601	7 October 2002	YES
60/467,686	2 May 2003	YES

I hereby claim the benefit under Title 35, United States Code, §120 of any United States applications listed below, and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) and (b) set forth above which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

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None known.

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None known.

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As a named inventor, I hereby appoint the registered practitioners of the Customer Number provided below to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected therewith; I further direct that correspondence concerning this application be directed to:

Imaging Therapeutics, Inc. c/o  
Robins & Pasternak  
1731 Embarcadero Road, Suite 230  
Palo Alto CA 94304  
Tel: 650.493.3400  
Fax: 650.493.3440

**CUSTOMER NUMBER: 36806**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**Full name of first inventor:** **Philipp LANG**

Inventor's signature \_\_\_\_\_ Date \_\_\_\_\_  
Residence: 7 Fair Oaks Terrace, Lexington, Massachusetts 02421  
Citizen of: Germany  
Post Office Address: (same as above)

**Full name of second inventor:** **Daniel STEINES**

Inventor's signature Daniel Steines Date 2/12/04  
Residence: 3619 Park Boulevard, Palo Alto, California 94306  
Citizen of: Germany  
Post Office Address: (same as above)

**Full name of third inventor:** **Hacene BOUADI**

Inventor's signature Hacene Bouadi Date 2/12/04  
Residence: 1824 Oak Creek Drive, Apt. 307, Palo Alto CA 94304  
Citizen of: United States and Algeria  
Post Office Address: (same as above)